

REMARKS

Claims 1, 8-14, 17, 18, 23-27, 30-32, 39-42, 45, 46, 51-55, 58-60, 67-70, 73, 74, 79-83, and 86-139 are pending, with claims 1, 32, 60, 88, 105, and 120 being independent. Claims 2-7, 15, 16, 19-22, 28, 29, 33-38, 43, 44, 47-50, 56, 57, 61-66, 71, 72, 75-78, 84, and 85 are cancelled. Claim 1 has been amended. No new subject matter has been added.

35 U.S.C. 112 Rejection

Claims 1, 8-14, 17-18, 23-27, 30-31, and 137 have been rejected under 35 U.S.C. 112, second paragraph as being indefinite. Claim 1 has been amended to recite "a new hardware device" instead of "the new hardware device." For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 112 rejection of independent claim 1 and its respective dependent claims.

Claims 1, 8-14, 23-27, 30-32, 39-42, 51-55, 58-60, 67-70, 79-83, 86 and 87

Claims 1, 8-14, 23-27, 30-32, 39-42, 51-55, 58-60, 67-70, 79-83, 86 and 87 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnan (6,075,863) in view of Fleming (6,473,854), Onosaka (5,961,608) and Perlman (6,023,585)

Independent claims 1, 32, and 60 recite a system (claim 1), a method (claim 32) and a computer program (claim 60) for installing computer software components on a client device for enabling connectivity to a host system by at least one of several different hardware devices. Independent claim 1 recites, among other features, "a detection module that is structured and arranged to detect whether installation of the connectivity component is needed to enable connectivity between the client device and the host system using the selected hardware device." (emphasis added).

Applicants request reconsideration and withdrawal of the rejection because Krishnan, Fleming, Onosaka, and Perlman, either alone or in combination, fail to describe or suggest at least the above feature.

The Office Action relies on improper hindsight analysis and piecemeal claim interpretation to show the features of claim 1. Claim 1 recites “the connectivity component is needed to enable connectivity.” To show this limitation, the Office Action arbitrarily breaks this short, indivisible phrase into two separate sections (“connectivity component is needed” and “to enable connectivity”) and applies different references against each of the sections. Such piecemeal analysis is contrary to the law:

- “[R]ejecting patents *solely by finding prior art corollaries for the claimed elements* would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be *an illogical and inappropriate process by which to determine patentability.*” *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998) (emphasis added).
- “[The Examiner] cannot use hindsight reconstruction *to pick and choose among isolated disclosures* in the prior art to deprecate the claimed invention.” *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988) (emphasis added).

The Office Action acknowledges that Krishnan does not teach the above limitation in its entirety. According to the Office Action, Krishnan only teaches “a detection module that is structured and arranged to detect whether installation of the connectivity component is needed,” but fails to teach that “the connectivity component enables connectivity to a host system.” (See Office Action Mailed September 24, 2007 at pp. 4-5.)

The Office Action relies on Fleming to show the second part of the phrase - a connectivity component that enables connectivity to a host system. (See Office Action Mailed September 24, 2007 at pp. 4-5.) Notably, Fleming also fails to teach the entire limitation. Specifically, Fleming does not teach “a detection module that is structured and arranged to detect whether installation of the connectivity component is needed” and, notably, is not relied by the Office Action for this feature. Therefore, neither Krishnan nor Fleming disclose the above limitation in its entirety and their combination is a piecemeal attempt to re-construct the indivisible limitation.

Moreover, the combination of Krishnan and Fleming still fails to achieve the function required by the language of the limitation. If one were to combine Krishnan and Fleming as proposed by the Office Action, she would end up with a system that does not perform the

function recited in claim 1, but instead has two disconnected functionalities – one for *detecting the need for encryption drivers that encrypt an existing connection* (Krishnan) and one for *downloading modem drivers that actually enable this connection over the network* (Fleming). Thus, the combination of Krishnan and Fleming stills fails to disclose “a detection module that is structured and arranged to detect whether installation of the connectivity component is needed to enable connectivity between the client device and the host system,” as required by claim 1. Naturally, this incongruity is a clear result of the impermissible piecemeal analysis used in the Office Action to break up the “detection module” limitation into two separate parts and then reconstruct the limitation using two mismatched references.

Such analysis is also improper according to the USPTO's own guidelines. In addressing the recent KSR decision of the Supreme Court, the USPTO has made clear that, “in formulating a rejection under 35 U.S.C. § 103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed.” (See Memorandum dated May 3, 2007, to Technology Center Directors from Margaret A. Focarino, Deputy Commissioner for Patent Operations, re Supreme Court decision on KSR Int'l. Co., v. Teleflex, Inc., emphasis added). The current Office Action suggests that it would have been obvious to modify Krishnan with Fleming “because by downloading a modern driver, the system could use the modem to communicate with other computers via network.” (See Office Action Mailed September 24, 2007 at pp. 4-5.) However, this ignores the fact that Krishnan downloads Java applets over the **existing** connection. The Java applet in Krishnan merely secures an **already-existing communication session**. Therefore, Krishnan does not need the modem drivers of Fleming to communicate with other computers via network, as it is already in process of communicating with them. Thus, the very natures of Krishnan and Fleming teach away from combining their teachings.

Onosaka and Perlman do not remedy this failure of Krishnan and Fleming, and, notably, are not relied upon by the Final Office Action to describe or suggest these features that are not present in Krishnan and Fleming.

In summary, Krishnan, Fleming, Onosaka, and Perlman, either together, or in a combination do not describe or suggest a detection module that is structured and arranged to detect whether a connectivity component is needed to enable connectivity between the client and the host system using the selected hardware device. For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claims 1, 32, and 60, and their respective dependent claims.

Claims 88-91, 93-94, 97, 99-108, 110-111, 114, 116-123, 125-126, 129 and 131-136

Claims 88-91, 93-94, 97, 99-108, 110-111, 114, 116-123, 125-126, 129 and 131-136 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krishnan (6,075,863) in view of in view of Fleming (6,473,854), Onosaka (5,961,608) and Elg (6,694,354).

Claims 88, 105, and 120 recite a system (claim 88), a method (claim 105), and a computer program (claim 120) for enabling connectivity to a host system by at least one of several different hardware devices that includes, among other features, detecting whether installation of the connectivity component is needed to enable connectivity between the client device and the host system using a selected hardware device.

For the same reasons as were recited above for claims 1, 32, and 60, Applicants request reconsideration and withdrawal of the rejection because Krishnan, Fleming, Onosaka, and Elg, either alone or in combination, fail to describe or suggest these features. The reasons that Krishnan and Fleming do not disclose or suggest these features are discussed above. Onosaka and Elg do not remedy this failure of Krishnan and Fleming, and, notably, are not relied upon by the Final Office Action to describe or suggest these features that are not present in Krishnan and Fleming.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claims 88, 105, and 120, and their respective dependent claims.

Claims 92, 98, 109, 115, 124 and 130

Claims 92, 98, 109, 115, 124 and 130, which depend from claims 88, 105 and 120, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krishnan in view of Fleming, Onosaka and Elg, and further in view of Perlman.

With respect to these claims, Applicants respectfully request reconsideration and withdrawal of the rejection because Perlman does not remedy the failure of Krishnan, Fleming, Onosaka, and Elg to describe or suggest the subject matter of the independent claims and, notably, is not relied upon in the Final Office Action as describing the features missing from those references.

Claims 17-18, 45-46 and 73-74

Claims 17-18, 45-46 and 73-74, which depend from claims 1, 32 and 60, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krishnan in view of Fleming, Onosaka and Perlman, and further in view of Coutts (6,311,165).

With respect to these claims, Applicants respectfully request reconsideration and withdrawal of the rejection because Coutts does not remedy the failure of Krishnan, Fleming, Onosaka, and Perlman to describe or suggest the subject matter of the independent claims and, notably, is not relied upon in the Final Office Action as describing the features missing from those references.

Claims 95-96, 112-113 and 127-128

Claims 95-96, 112-113 and 127-128, which depend from claims 88, 105 and 120, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krishnan in view of Fleming, Onosaka and Elg, and further in view of Coutts.

With respect to these claims, Applicants respectfully request reconsideration and withdrawal of the rejection because Coutts does not remedy the failure of Krishnan, Fleming, Onosaka, and Elg to describe or suggest the subject matter of the independent claims and, notably, is not relied upon in the Final Office Action as describing the features missing from those references.

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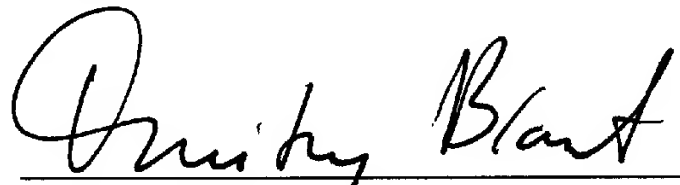
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Applicant submits that all claims are in condition for allowance.

The Petition for Extension of Time fee of \$120 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account 06-1050.

Respectfully submitted,

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